

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed amendment ) NOTICE OF PUBLIC HEARING  
of 24.29.4315, relating to insurer reporting ) ON PROPOSED AMENDMENT  
requirements )

TO: All Concerned Persons

1. On June 22, 2007, at 10:00 a.m., or as soon thereafter as is feasible, the Department of Labor and Industry (department) will hold a public hearing to be held in the first floor conference room (room 104), Walt Sullivan Building, 1327 Lockey Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on June 15, 2007, to advise us of the nature of the accommodation that you need. Please contact the Workers' Compensation Regulations Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Keith Messmer, P.O. Box 8011, Helena, MT 59624-8011; telephone (406) 444-6541; fax (406) 444-3465; TDD (406) 444-5549; or e-mail [kmessmer@mt.gov](mailto:kmessmer@mt.gov).

3. On April 20, 2007, the department held a public hearing to consider the proposed adoption of the above-stated rule. Based on written comments received, the department decided to adopt the rule as proposed as soon as possible in order to promulgate the rule in a timely manner. The rule is adopted elsewhere in this issue of the Register. However, based upon the comments received, the department now proposes to amend the rule in order to clarify it.

4. The proposed amendment provides as follows, stricken matter interlined, new matter underlined:

24.29.4315 INSURER AND EMPLOYER REPORTING REQUIREMENTS -  
COVERAGE AND CANCELLATION NOTIFICATION (1) An insurer's ~~E~~electronic  
notice of insurance coverage or cancellation must contain the taxpayer identification  
number of the employer.

(2) An employer must provide its taxpayer identification number to its  
workers' compensation insurer.

AUTH: 39-9-103, 39-71-203, 39-71-225, MCA

IMP: 39-9-201, 39-71-203, 39-71-225, 39-71-401, 39-71-504, 39-71-507, 39-71-  
2204, 39-71-2205, 39-71-2337, 39-71-2339, MCA

REASON: There is reasonable necessity to amend ARM 24.29.4315 in order to clarify that an employer must report its taxpayer identification number to its insurer so that the insurer's insurance policy coverage and cancellation reporting to the department comply with the department's requirements. The department is implementing the International Association of Industrial Accident Boards and Commissions ("IAIABC") Proof of Coverage release 2.1 (projected for August 1, 2007). The department uses the IAIABC's national standard reporting format for workers' compensation insurance coverage, which identifies employing entities by the entity's taxpayer identification number, in order to help track employer compliance with Montana's workers' compensation insurance coverage requirements. At least one insurer, the Montana State Fund (MSF), has advised the department that without an administrative rule requiring the collection of the taxpayer identification number from its insured employer, the insurer might not otherwise be able to obtain the information from the employer.

The department uses the coverage information to carry out some of its regulatory functions with regards to the Workers' Compensation Act. In addition to using the coverage information to correctly identify the insurer "on the risk" for a claim filed by an injured employee, the department uses the database information to enforce, via the Uninsured Employers' Fund, the coverage requirements imposed upon employers by the Workers' Compensation Act. The department also uses the information as part of the workers' compensation insurance verification process in the construction contractor registration program provided for in Title 39, chapter 9, MCA. The coverage information also helps the department provide management information related to the Montana workers' compensation system in fulfillment of the department's obligations pursuant to 39-71-225, MCA.

The database software that supports IAIABC Proof of Coverage release 2.1 is designed to reject coverage information submitted without an employer's identification number (EIN), and returns an error message that the EIN is a required field. That circumstance will require the insurer to correct that error, which means getting a valid EIN and then resubmitting the policy information. Most, if not all insurers currently writing workers' compensation policies in Montana, provide coverage reporting using the National Council of Compensation Insurers ("NCCI") as the reporting agent for the insurer. Such reports are submitted electronically, using the IAIABC reporting format. The department believes that there is no feasible, reliable, and cost-effective alternative way of accurately identifying an insured employer other than by use of the employer's taxpayer identification number.

The proposed amendment requires that each insured employer disclose its taxpayer identification number to its insurer. For most employers, that will be a federal employer identification number (FEIN). If an individual policyholder does not have a FEIN, the individual's social security number is that employer's taxpayer identification number. Any employer who does not want to use his or her social security number as the employer identification number can obtain an FEIN. Obtaining an FEIN is simple and can be completed in less than 15 minutes. If an individual who is an employer nevertheless chooses to use the individual's social

security number as the employer identification number, the individual employer waives his or her right to privacy in that number to extent of its proper use for compliance with the Workers' Compensation Act.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Keith Messmer, Bureau Chief, Workers' Compensation Regulations Bureau, Employment Relations Division, Department of Labor and Industry, P.O. Box 8011, Helena, Montana 59624-8011; by facsimile to (406) 444-3465; or by e-mail to [kmessmer@mt.gov](mailto:kmessmer@mt.gov), and must be received no later than 5:00 p.m., June 29, 2007.

6. An electronic copy of this Notice of Public Hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings Section. The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Department of Labor and Industry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1327 Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to [mcadwallader@mt.gov](mailto:mcadwallader@mt.gov), or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. The department's Hearings Bureau has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 14, 2007